REMARKS

Claims 1-4, 9-17, 22, 24-55, 59, 62-68, 71, 76, 78, 79, 81, 82, 84-87, and 91 are pending in this application, with claims 1, 54, and 63 being independent. Claims 1, 22, 34, 63, 66, 68, 87, and 91 have been amended. Claims 72 and 90 have been cancelled without prejudice or disclaimer of subject matter. Support for the amendments can be found, for example, in FIG. 15 and at p. 38, line 19 to p. 39, line 4 of the specification. No new matter has been added.

Interview Summary

Applicant's undersigned representative thanks Examiner Vu for the telephonic interview conducted March 18, 2010. The substance of the interview is reflected in the preceding amendments and the following remarks.

Section 103 rejection based on Liles, Kim, and Day

Claims 1-4, 9-17, 24-32, 35-43, 47-55, 59, 62-68, 71, 72, 76, 78, 79, 81, 82, 84-86 were rejected under 35 U.S.C. § 103(a) based on U.S. Patent No. 5,880,731 ("Liles"), W.I.P.O. Patent Application Publication No. 01/84461 ("Kim"), and U.S. Patent No. 7,039,676 ("Day"). However, Liles, Kim, and Day do not support a conclusion of obviousness with respect to claims 1-4, 9-17, 24-32, 35-43, 47-55, 59, 62-68, 71, 76, 78, 79, 81, 82, 84-86.

Independent claim 1 recites, among other things, a method comprising:

> detecting, by a computer of the first user and independently of the first user, an interaction by the first user with a computer application operating concurrently with the communication session, the interaction being detected independent of any outputs from the computer application;
>
> determining, based on the detected interaction by the first user with the computer application operating concurrently with the communication session, out-of-band information indicating an activity of the first user, the activity being related to the computer application with which the first user interacts; and
>
> communicating, independently of the first user and the second user, the out-of-band information to the second user by changing an animation of the avatar representing the first user to graphically

> convey the activity of the first user indicated by the determined out-of-band information

(emphasis added). Liles, Kim, and Day—whether taken alone or in proper combination—fail to disclose or suggest at least these features.

Liles discloses a system for communication between participants using graphical representations in a chat session where the participants may select a "gesture" with which to animate the participant's avatar. *See* Liles, col. 10, lines 33-45. Kim discloses a method for changing the background screen image in a three-dimensional virtual space based on the determined physical location of a user. *See* Kim, Abstract. However, neither Liles nor Kim describe detecting, by a computer of the first user, an interaction by the first user with a computer application operating concurrently with the communication session, the interaction being detected independent of any outputs from the computer application, as recited in claim 1. In fact, neither Liles nor Kim describe or suggest the use of a computer application operating concurrently with the communication session.

Recognizing the deficiencies in Liles and Kim with regard to the above-described features, the Office Action turns to Day. Day describes automatic gesture software that sends commands to chat room software based on analysis of gestures by a user captured through a video camera. *See* Day, Abstract. Day specifically teaches that the purpose of the automatic gesture software is to interact with the chat room software to enable a participant at a computer system to communicate with other participants over a network. *See* Day, col. 5, lines 23-28. However, it is the outputs of the automatic gesture software themselves that act as commands "inputted to the chat room software," used, among other things, to animate a user's avatar. *See* Day, col. 9, lines 16-32. Therefore, Day does not describe or suggest detecting, by a computer of the first user, an interaction by the first user with a computer application operating concurrently with the communication session, the interaction being detected independent of any outputs from the computer application, and determining, based on the detected interaction by the first user with the computer application operating concurrently with the communication session, out-of-band information indicating an activity of the first user, the activity being related to the computer application with which the first user interacts as recited in claim 1.

For at least the foregoing reasons, Liles, Kim, and Day—taken alone or in a proper combination—fail to disclose or suggest each and every element recited in independent claim 1. Moreover, no basis has been established for concluding that it would have been obvious to one of ordinary skill in the art to bridge the aforementioned gaps between the claims and the applied references. *See* M.P.E.P. § 2141(III) (July 2008). Indeed, the applied references do not provide such a basis. The section 103 rejection of claim 1 and its dependent claims should accordingly be withdrawn.

For reasons similar to those discussed above with regard to claim 1, independent claims 54, and 63 are distinguishable over the applied references. Therefore, withdrawal of the section 103 rejections of claims 54 and 63 and their respective dependent claims is requested.

Section 103 rejection based on Liles, Kim Day, and Tang

Claims 22 and 90 were rejected under 35 U.S.C. § 103(a) based on Liles, Kim, Day, and U.S. Patent No. 6,349,327 ("Tang"). Initially it is noted that claim 90 has been cancelled, rending moot its rejection. Furthermore, Tang fails to cure the above-described deficiencies of Liles, Kim, and Day with regard to independent claim 1.

Tang discloses a communication system for providing users across a computer work environment with information regarding the "task proximity" of other users working within the environment. Tang, Abstract. Tang defines users as "task proximate" when one or more users who are utilizing the same or similar applications or data within a defined period of time from one another. Tang, col. 3, lines 33-44. Depending on users' task proximity, Tang describes updating the visual representation of the users in the communication system. *See* Tang, col. 5, lines 56-65. However, Tang determines task proximity based on status messages output from special "encounter aware" applications. Tang, col. 13, lines 31-42.

Therefore, Tang does not describe or suggest detecting, by a computer of the first user, an interaction by the first user with a computer application operating concurrently with the communication session, the interaction being detected independent of any outputs from the computer application, and determining, based on the detected interaction by the first user with the computer application operating concurrently with the communication session, out-of-band information indicating an activity of the first user, the activity being related to the computer

application with which the first user interacts as recited in claim 1. Accordingly, Kim, Liles, Day, and Tang—whether taken alone or in a proper combination—fail to render obvious claim 1 or its dependent claims 22. The section 103 rejection and the timely allowance of dependent claim 22 is therefore requested.

Section 103 rejection based on Liles, Kim, Day, and Matsuda

Claims 33 and 34 were rejected under 35 U.S.C. § 103(a) based on Liles, Kim, Day, and U.S. Patent No. 7,007,065 ("Matsuda"). However, Matsuda fails to cure the deficiencies of Kim, Liles, and Day with respect to independent claim 1. Accordingly, Kim, Liles, Day, and Matsuda—whether taken alone or in a proper combination—fail to render obvious claim 1 or its dependent claims 33 and 34. The section 103 rejection and the timely allowance of dependent claims 33 and 34 is therefore requested.

Section 103 rejection based on Liles, Kim, Day, and Ostermann

Claims 44-46 were rejected under 35 U.S.C. § 103(a) based on Liles, Kim, Day, and U.S. Patent No. 7,177,811 ("Ostermann"). However, Ostermann fails to cure the deficiencies of Kim, Liles, and Day with respect to the independent claim 1. Accordingly, Kim, Liles, Day, and Ostermann—whether taken alone or in a proper combination—fail to render obvious claim 1 or its dependent claims 44-46. The section 103 rejection and the timely allowance of dependent claims 44-46 is therefore requested.

Conclusion

It is requested that the Examiner reconsider the application in view of the remarks and timely allow the pending claims.

It is believed that all pending issues in the outstanding Office Action have been addressed by this paper. The Office Action, however, contains a number of statements reflecting characterizations of the related art and the claims. Whether or not any such statement is identified herein does not constitute an automatic subscription to any statement or characterization in the Office Action. In addition, there may be reasons for patentability of any or all pending or other claims that have not been expressed above.

If there are any questions regarding this paper or the application generally, a telephone call to the undersigned would be appreciated since this may expedite prosecution of the application.

It is hereby petitioned that the period for response to the Office Action be extended for one (1) month. The Petition for Extension of Time fee of $130.00 is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please grant any additional extensions of time required to enter this paper and apply any required charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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